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Board Meeting – July 29, 2013

21st Floor – Conference Room 1

Present Board Members:

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Myra Berloff, Massachusetts Office on Disability (MB)
- Carol Steinberg, Member (CS)
- Mark Trivett, Member (MT)

and

- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)
- Mark Dempsey, Compliance Officer

Members Not Present:

- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Andrew Bedar, Member (AB)
- Gerald LeBlanc, Member (GL)

- Meeting began at 9:00 a.m.

1) **Incoming:** 3 Dormitories, Mass. College of Pharmacy, 7, 11, 15 Lancaster St., Worcester (V13-206)

KS - EXHIBIT – variance application

- 3 buildings, built in 1950
- 3 floors each (basement, first and second)
- each building is +/- 6,000 GSF, with +/- 2,000 GSF per floor
- previously apartment buildings, and have been converted to dorms for students at Mass. College of Pharmacy
- each building will have 6 dorm suite (kitchen, 2 br, bath, living, some with dining rooms), total of 18 suites, with all scheduled to be ready for occupancy this fall of 2013
- buildings needed all new mechanical and plumbing systems, along with new exterior and interior finishes, and new appliances and windows
- spending \$800,000.00, buildings are valued at \$1,200,000.00; so over 30%

- seeking 5 variances
- first variance, 25.1, entrances
 - o providing one accessible Group 2B unit in Building 11, with a compliant ramp to an accessible entrance directly into this unit
 - o accessible approaches are being provided to Building 11 (east side entrance) and Building 15 (south side entrance)
 - o all three buildings have entrances that lead to mid-level landings with stairs up and down to access the units
 - o petitioners are planning to relocate the mailboxes to a central accessible location
 - o seeking a variance for no accessible entrance to Building 7, since there will still be 2 steps to get to the front entrance

MB - grant no access to building 7 and accept the proposal for building 11 and 15.

CS - second – carries

- KS - variance for 27.4.1, stair handrails
- o existing stairs in all three buildings are narrow with less than 36” to 45” provided
 - o petitioners plan to provide new guardrail in place of current handrails; guardrails will comply with current building codes
 - o Petitioners cite Section 705.9 of 2009 IEBC, requiring that all existing stairways that are part of an egress and have 3 or more risers shall be provided with at least one handrail unless they are wider than 66”
 - o Seeking to provide only one compliant handrail at the existing stairs

CS - grant on the condition one compliant handrail provided and new guard rail as proposed

DM - second – carries

- KS - variance for 45.4.4, countertop in Group 2 kitchens
- o due to existing conditions, required to fur out the wall behind the stove in the accessible unit kitchen, which adds an additional 4 inches and reduces the overall kitchen depth
 - o 60” clear turning space will be provided, and in order to provide additional storage, full height pantry cabinet will be provided to the left of the sink
 - o in lieu of the required 15” of countertop to the right of the sink, only 12” of countertop will be provided

MB - grant as proposed

CS - second – carries

- KS - variance for 44.4.1, water closet location in Group 2 bathroom
- o can only provide 38” of clear space between the centerline of the toilet and the edge of the sink, instead of the 42” which is required
 - o due to existing structural framing location, can’t shift the hallway/bedroom partition wall to create more space

CS - grant as proposed

DM - second – carries with MB opposed

- KS - variance for 20.3, existing stair clear width at Buildings 11 and 15
- o due to existing design and construction constraints, not tech. feasible to widen the existing stairs in these locations
 - o seeking a variance to allow stairways of less than 36” wide

- variance not required since stairs are not considered accessible routes per 20.1

MB - no variance from this Board required

DM - second – carries

KS - we did receive an e-mail from Scott Ricker opposed to the variance for the lack of compliant handrails at both sides of the stairs, but unsure as to his affiliation with the project

MB - understand objection, but variance was granted for handrails based on technological infeasibility

- ***Raymond Glazier, Executive Office On Elder Affairs Designee (RG) - Now Present-***

2) Incoming: Apartment Buildings (4 buildings), Waldren Rd., Walnut Park, Washington St. & Walnut Ave., Boston (V13-201)

KS - EXHIBIT – variance application

- over 30% renovation

- Variance sought for all of the required accessible units to be located in one (1) building (361-363 Walnut Avenue)

- Petitioners note that creating accessible units in the 3 other buildings would be infeasible due the current layout of the buildings and the need to maintain the existing number of units and the bedrooms provided

- all of the buildings are 100% occupied

MB - GRANT the variance to 521 CMR 9.4.2, regarding all 3 accessible units to be provided within 361-363 Walnut Avenue. The motion is based on the fact that the Petitioners had proven that distributing the accessible units would not be technologically feasible at the 3 other buildings within the complex.

MT - second – carries

KS - Variance sought for lack of accessible routes to Waldren Rd., Washington St. & Walnut Park buildings
- Since there are no accessible units or elements at any of these buildings, Petitioner stated that providing accessible routes to these three (3) buildings would be technologically infeasible due to the existing location of the building on the sites.

MB - GRANT the variance to 521 20.2, for the lack of accessible routes to the Waldren Rd., Washington St. & Walnut Park buildings, based on the fact that the Petitioners had proven that compliance would be technologically infeasible.

DM - second – carries

KS - Variance sought for lack of accessible entrances at Waldren Rd., Washington St. & Walnut Park
- The main entrance to Walnut Avenue has a compliant ramp
- existing entries to Waldren Rd., Walnut Park, and Washington St. are accessed by exterior concrete steps to the front door; and at the interior, units are accessed by another flight of stairs from the entry vestibule
- Petitioners argue that compliance at these three (3) buildings with 521 CMR 25.1 would be technologically infeasible

MB - *GRANT the variance to 521 CMR 25.1, for the lack of accessible entrances to the Waldren Rd., Washington St. & Walnut Park buildings, based on the fact that the Petitioners had proven that compliance would be technologically infeasible at these locations.*

MT - *second – carries*

KS - The laundry rooms in Waldren Rd., Walnut Park & Washington St. are accessed by an existing stair to the basement level
- the Petitioners note that since these buildings have no accessible units and no access to the buildings, providing accessible laundry facilities to these three (3) buildings would be technologically infeasible

MB - *GRANT the variance for the lack of accessible laundry facilities (521 CMR 10.8) within the Waldren Rd., Washington St. & Walnut Park buildings, based on the fact that it had been proven that compliance would be technologically infeasible.*

MT - *second – carries*

KS - variance sought for existing winder stairs at Waldren Rd. & Washington St.
- buildings are not accessible and will have no accessible units

DM - *GRANT the variance for the existing winders within the Waldren Rd. & Washington St. buildings, based on the fact that the Petitioners had proven that compliance would be technologically infeasible.*

MB - *second – carries*

MB - *REQUIRE that the Petitioners submit verification that the nosings at the existing stairs comply with the requirements of 521 CMR 27.3; and if they do not currently comply, the Petitioners shall submit a plan for compliance or amended variance request by August 9, 2013.*

DM - *second - carries*

KS - Variance sought for lack of continuous handrails at all buildings; compliant wall side handrails proposed
- continuous handrails are not currently provided on both sides of all the stairs in all the buildings
- Petitioners argue that the installation of handrails on both sides of the stair would limit the clear width of the stair, making moving furniture technologically infeasible

MB - *CONTINUE the discussion regarding the lack continuous handrails at both sides of the stairs (521 CMR 27.4.1) to have the Petitioners submit more information regarding the clear width provided at the stairs in question by August 9, 2013.*

CS - *second - carries*

KS - Variance sought for lack of handrail extensions at Waldren Rd., Walnut Park & Walnut Ave.
- Petitioners state that new handrails at these buildings are unable to extend in numerous locations due to the existing unit entry door locations
- handrails will be extended as far as possible

MB - *no variance is required for the lack of compliant handrail extensions at the existing stairs at Washington St., Walnut Park & Walnut Ave., based on the 521 CMR 27.4.3c.*

CS - *second – carries*

3) Incoming: Bernard Music Center, Williams College, 54 Chapin Hall Dr., Williamstown (V13-203)

KS - EXHIBIT – variance application
- spending over 30%

- variance sought for lack of access to the stage from within the Brooks Rogers Performance Hall
- existing stage is 28 inches above the finished floor,
- \$58,212 for ramp to stage (+/- 38 feet) and would create loss of 35 seats and obstruct sight lines for the majority of the remaining seats
- \$55,535 for lift to stage and would create loss of 7 seats, and would obstruct the sight lines of at least 10 additional seats
- accessible route to the stage is provided via the doors from the corridor, which are outside the place of assembly

DM - GRANT the variance to 521 CMR 14.6, to allow for the proposed route to the stage via the corridor adjacent to the Brooks Rogers Performance Hall, as shown in Plan VI-1 by EDM (attached), with the following conditions: 1) an automatic door opener is installed at the doors to the stage; and 2) the Petitioners submit a policy attesting to the fact that any function held at the stage (where people would access the stage from the seating area) would require that all people use the corridor access to the stage if a participant is unable to traverse the steps to the stage.

CS - second – carries

- KS**
- Petitioners seeks a variance for four (4) existing doors that are recessed more than the allowed 6".
 - The doors access the following rooms:
 - Women's room, which is not accessible, but is across the hall from a new unisex accessible toilet room to be installed this summer
 - storage room
 - Men's Room, which is not accessible, but is across the hall from a new unisex accessible bathroom being installed this summer
 - stair to second level

MB - GRANT the variance for the four (4) existing doors (women's room, storage room, men's room and stair door to second level) which are recessed into the opening 10-11" (521 CMR 26.6.2).

MT - second – carries with CS abstaining

- KS**
- Variance sought to maintain an existing second floor inaccessible toilet room.
 - current toilet room is too small and would need to be expanded into the adjacent electrical closet, which would require relocation of an electrical distribution panel and disconnect
 - relocating the toilet the toilet room into one of the storage rooms is not possible in that they are located above the Brooks Rogers Performance space

CS - GRANT the variance for the lack of access at the existing second floor toilet room, on the condition that signage is posted at the inaccessible toilet room, directing people to the nearest accessible toilet room.

RG - second – carries

- KS**
- Petitioners seeks a variance to provide an alternate accessible stall with dimensions of 33" by 59" at the existing lower level women's toilet room, instead of the required dimensions of 36" by 66".
 - cannot decrease the fixture count, which would be the result of expanding the current stalls to create one alternate accessible stall
 - proposing to install grab bars and reverse the door to have it swing out

MB - GRANT the variance requested for 521 CMR 30.6.2, regarding the proposed dimensions of the alternate accessible stall within the lower level women's toiler room, therefore allowing the dimensions of 33" by 59", on the condition that as proposed, the Petitioners add the addition

accessible grab bars in the one (1) required stall and reverse the swing of the existing door, as shown in Plan V4-1 by EDM.

MT - second – carries

- KS - Petitioner seeks a variance to maintain the existing lack of a level landing at the interior vestibule door at the Brooks Rogers Performance Hall, with an automatic door opener proposed.
- Brooks Rogers Performance Hall is entered through a vestibule; at the inner set of doors, a 6' long ramp begins at the door frame with no landing

CS - GRANT the variance to 521 CMR 26.6.1 for the lack of a level landing at the interior vestibule door at the Brooks Rogers Performance Hall, on the condition that an automatic door opener is installed at this door as proposed.

DM - Second – Carries

4) Incoming: Sidewalk/Ramp variances, Route 110 – Orchard St. to Broad St., Merrimac (V13-199)

KS - EXHIBIT – variance application and plans

- Petitioner seeks a variance for portions of a new sidewalk that will exceed the required 5% running slope. Slopes vary from 1.5% to 7.5%, as shown on the "Construction Details Sheet 4 of 5"

MB - GRANT the variance to 521 CMR 22.3, regarding the proposed slopes of up to 7.5% for portions of the raised sidewalk adjacent to the storefront, as shown on the "Construction Details Sheet 4 of 5" (attached). The motion is based on the fact that the Petitioners had proven that full compliance would be "impracticable", as defined in 521 CMR 5.

DM - second – Carries

- KS - Petitioner seeks a variance for portions of the ramped section of sidewalk to only provide a continuous handrail along the sloped sections of one side of the sidewalk (along the retaining wall guard rail), since handrails at both sides would block the adjacent storefront entrances.

MB - GRANT the variance to provide a handrail at the portions of the ramped section of the sidewalk only at the guardrail side of the sidewalk, as shown on the "Construction Details Sheet 4 of 5" (attached). The motion is based on the fact that the Petitioners had proven that full compliance would be "impracticable", as defined in 521 CMR 5.

DM - second – carries

5) Incoming: Pro-Optical Eye Glass Store, 175 Cambridge St., Boston (V13-202)

KS - EXHIBIT – variance application and plans

- expansion into adjacent space to create overflow space for Pro-Optical with exams rooms and eye glass store
- when cut into the wall, found an 11" change in level between the two adjacent tenant spaces
- existing space has accessible entrance, and new space will act as only overflow for future growth and will offer the exact same services as the existing accessible area currently offers
- Petitioner seeks a variance for the changes of level at the front and rear corridors of the existing space into the newly expanded adjacent tenant space. Proposing to have steps, since ramp would take up too much space and lift not feasible.

MB - GRANT the variance to 521 CMR 29.2, regarding the changes of level at the front and rear corridors of the existing space, into the newly expanded adjacent tenant space, as shown in the attached plan. The motion is based on the condition that, as proposed, the new expanded tenant space will be used for overflow use only with all of the same services available within the existing accessible tenant space provided in the overflow space as well. The motion is based on

the fact that the Petitioners had proven that full compliance with the applicable requirements would be technologically infeasible.

MT - second – carries

KS - Petitioner seeks a variance to only provide one handrail at each of the two (2) sets of stairs, along the front and rear corridor, between the existing and expanded tenant spaces.
- argument is that the column at the stairs and the adjacent doors make having two handrails at each set of stairs not feasible

MB - *GRANT the variance to 521 CMR 27.4, regarding the lack of handrails at both sides of the two (2) corridor stairs at the front and rear corridors, on the condition that one (1) compliant handrail (521 CMR 27.4) is provided at the stairs in question. The motion is based on the fact that the Petitioners had proven that full compliance would be "impracticable", as defined in 521 CMR 5.*

RG - second – carries

6) Incoming: Law Office, 688 Washington ST., South Easton (V13-209)

MT - recuse (leaves the room)

KS - EXHIBIT – variance application
- change of use from private residence to law office
- The Petitioner seeks a variance from having to provide vertical access to the second floor of the proposed law office, which is located in a former residence.

- DM, RG and MT not present -

- continued to later in the day due to unexpected sudden loss of quorum

- DM & MT present-

7) Incoming Discussion: Technology Children's Center, MIT, 219 Vassar St., Cambridge (V13-176)

KS - originally heard on July 1, 2013
- voted to deny the variance for the lack of access to the upper levels of the small "child alcove" area
- On July 15, 2013 the Board received a submittal from Kelly Ryan of D.W. Arthur Associates Architecture, Inc. Ms. Ryan's submittal included a new series of plans (A0.3, A1.4 and A0.6; attached) showing that an accessible space of 36" by 60" was created at the base of the alcove space, configured to have an adjacent companion seat.

CS - *DENY: the variance to Section 29.2.3 as proposed in the newly submitted plan. The Board noted that the motion was based on the fact that it had not been proven that full compliance, via full access to all levels of the space in question, would be technologically infeasible or an excessive cost without substantial benefit to persons with disabilities. Therefore, there shall be no use of the raised levels of this "child alcove".*

DM - second – carries

- RG Present -

8) Discussion: Samuel Harrison House, 80-82 Third St., Pittsfield (V13-095)

- KS - EXHIBIT – new affidavit, received by the Board on July 25, 2013
- submittal per the Board’s previous order of an affidavit regarding the use of the second floor of the property in question
- affidavit does refer to “volunteers” whom the Board considers members of the public
- CS - *NOT ACCEPT the submitted affidavit, based on the fact that the affidavit stated that “the second floor of the Samuel Harrison House will be used as a paid employee, volunteer, and storage space and will not be open to the public.” The Board noted that “volunteers” are considered “members of the public” since they are not paid employees. Therefore, if volunteers are allowed at the second floor of the House, then the second floor is considered open to the public. If this is the case, the Board will need to reevaluate their previous decision; if it is the intent that the second floor will only be used by paid employees and therefore not open to the public (volunteers and members of general the public) at all, then petitioner should resubmit the affidavit stating as such.*
- MB - *second - carries*
- CS - *reemphasize the previous decision of the Board to have the Petitioner submit the following by August 9, 2013:*
- *an affidavit is submitted regarding the second floor being a paid employee only space, not open to the public;*
 - *confirmation as to the exact clear width of the door (measured from the face of the stop on the latch side to the face of the door when the door is open 90 degrees, per 521 CMR 26.5), since your submittal shows the measurement of the door jamb and not the clear width provided*
 - *confirmation (both written and visual) that the door hardware complies with the requirements of 521 CMR 26.11, or will be brought into compliance with these requirements*
 - *a written amendment requesting a variance to 521 CMR 27.4.1, based on the Board’s condition that the variance for the lack of compliant handrails at both sides of the existing stairs was granted on the condition that this written amendment is submitted.*
- DM - *second – carries*
- DM - *Expedite*
- MT - *second – carries*

9) Incoming: Law Office, 688 Washington ST., South Easton (V13-209) – Cont’d

- MT - *recuse (leaves the room)*
- KS - EXHIBIT – variance application
- change of use from private residence to law office
- The Petitioner seeks a variance from having to provide vertical access to the second floor of the proposed law office, which is located in a former residence.
- will provide access to the first floor via new compliant ramp to porch, first floor accessible toilet room and accessible conference room
- only additional law offices at the second floor, first floor will be completely accessible
- DM - *GRANT the variance to 521 CMR 28.1 for the lack of vertical access to the second floor of the property in question, with the following conditions: 1) only additional law offices shall be*

located at the second floor; 2) as proposed, all clients shall be accommodated to meet at the first floor; and 3) a written policy shall be submitted to the Board outlining the policy for accommodating clients at the first floor, to be submitted within fourteen (14) days

MB - second – carries with CS opposed and MT not present

- MT Present -

10) Incoming: Bistro 5, 471 High St., Medford (V13-174)

DM - recuse from discussion and left the room

KS - EXHIBIT - July 24, 2013 submittal from Vittorio Ettore
- originally heard on July 15, 2013 as an incoming case
- voted to continue the discussion regarding 25.1 to have the Petitioner provide a written policy on how assistance would be provided to persons with disabilities for using the rear entrance, with a door bell and buzzer at the front entrance
- the decision also allowed for the issuance of the building permit
- the July 24, 2013 submittal included a written policy, pictures of the proposed rear entrance with an awning and new door, pictures showing the proposed enclosure for the dumpster area, and the proposed signage

CS - GRANT the variance for the lack of access at the front entrance, on the condition that the accessible entrance is provided at the rear of the building, with the attached written policy in effect, as well as the other accommodations outlined in the submitted document.

RG - second – carries with DM not present

11) Incoming: 3 Retail Store Spaces, 466, 466A and 466B Salem St., Medford (V13-187)

KS - EXHIBIT – new submittal of Colin Smith Architecture, Inc. Plan A1.1, dated July 22, 2013
- plans showed that all three (3) tenant space entrances would have a sloped entry, with a slope of 1:10, one (1) handrail provided, and automatic door openers proposed at each door. Therefore, the Petitioners would require a variance to 521 CMR 26.6.1, since no level landing would be provided at the entrance doors.
- A variance is also required for the 3' 4" ramps and their 1:10 slope, since 521 CMR 24.2 requires that the slope of a ramp be no steeper than 1:12. The Petitioners also require a variance from 521 CMR 24.5.1, for providing a handrail at only one (1) side of the ramp.

MB - GRANT the variances required for this proposed design to allow a sloped landing at the three (3) entrance doors (521 CMR 26.6.1), with a slope of 1:10 (521 CMR 24.2) and only one (1) handrail provided at one (1) side of the sloped entries (521 CMR 24.5.1), on the condition that, as proposed, automatic door openers are provided at the entrance doors.

MT - second – carries with DM not present

- DM Present -

12) Discussion: Cases of the day

CS - question about Icon and the proposal to create stoops
- hasn't the Board dealt with similar cases in the past

MB - yes, and the Board required that the stoops be accessible since it was an entrance directly into the units

13) Discussion: Becket Athenaeum, 3367 Main St., Becket (V13-073)

KS - submittal of “Becket Athenaeum Programming Access Policy” (EXHIBIT), per the Board’s June 3, 2013 decision from the hearing on that same day
- policy states: “It is the intention of the Becket Athenaeum that all programs held at the Athenaeum will fully accommodate all patrons, students, and community members. There will be no classes, readings, exhibits or displays that cannot be fully accessed by any person participating in these events.”

MB - *NOT ACCEPT the submitted policy since it should not be an “intention”, but a firm policy and should outline how the Athenaeum will advertise events notifying potential patrons that accommodations are available, and how students will be accommodated for any special event or day-to-day programming. The new written policy shall be submitted to the Board within 14 days receipt of this decision of the Board.*

DM - *second – carries*

DM - *REAFFIRM their other previous decisions, noting that confirmation of compliance with the conditions of the variances must be submitted to the Board upon completion of the required work.*

CS - *second - carries*

14) Discussion: St. Peter’s Episcopal Church, 421 Wianno Avenue, Osterville (V12-110)

KS - submitting extension request for the completion of the elevator
- elevator is installed and requires a few “tweaks” before inspection can be done by Elevator Division
- original extension was to 8/1/13; temporary CO expires on 8/16/13
- seeking extension to 9/1/13

CS - *grant extension to completion of elevator and submittal of inspection certificate to September 1, 2013*

DM - *second - carries*

15) Discussion: Cases of the Day

MB - what is the status of the lift at Holbrook; looks like it was never used

MD - was used, but was removed
- they are going to submit a time variance and proposal for a ramp to access the space in question

16) Incoming Discussion: College Hall, Amherst College, 155 South Pleasant St., Amherst (V13-195)

KS - EXHIBIT – July 19, 2013 submittal from Thomas Hartman
- submittal included a locus plan showing the relationship of the College Hall Building to the other campus and activity buildings for Amherst College, per the Board's previous July 15, 2013 decision

- originally heard on July 15, 2013 and voted to be continued to determine relationship to inaccessible entrance in question, with the rest of the college campus

CS - *GRANT the variance for the lack of access at the existing historic main entrance to College Hall, on the condition that, as proposed and shown in the attached plan, a new accessible entrance will be created to the lower level of the building, creating access to the elevator lobby and the new accessible toilet rooms.*

RG - *second – carries*

- CS not present -

17) Incoming: Dennis-Yarmouth Reg. HS Press Box, Yarmouth (V10-151)

KS - submittal of 7/26/13 e-mail from Larry Azer (EXHIBIT)
- e-mail included a copy of the proposed plans for the vertical wheelchair lift proposed to create access from the ground floor to the second level of the press box. A supplemental e-mail was also sent stating that the school would like to use the press box during the 2013 football season, but did not anticipate that the work for the lift would be completed by such time.

DM - *ACCEPT the submitted plans for the installation of the proposed vertical wheelchair lift (Savaria Plans for Job Number 120934, dated July 26, 2013; and ERT Architects Inc. Plans for Project Number 081110, dated July 22, 2013). The Board also voted to ALLOW that the press box may be used, on the condition that a contract and deposit check for the installation of the proposed vertical wheelchair lift, along with a status update of the project, is submitted to the Board by August 15, 2013. The Board is also requiring that a progress report shall be submitted to the Board every 30 days, with the first report being the one required to be submitted by August 15th.*

MB - *second – carries*

18) Discussion: Whip Manufacturing Bldg, 360 Elm St., Westfield (V13-086)

KS - EXHIBIT – July 24, 2013 submittal of affidavit from Peter H. Martin, President of Westfield Museum, Inc.
- the submittal was part of the requirements of the Board's June 17, 2013 decision

MB - *ACCEPT the submitted affidavit and require that the affidavit is signed and notarized, and then to be filed immediately with the Local Registry of Deeds; with a copy of the recorded affidavit (with a stamped book and page number), to be returned to this office no later than September 31, 2013.*

MT - *second - carries*

- CS now present -

19) Incoming Discussion: 11 Beacon Street, Boston (V13-024)

KS - EXHIBIT – 7/23/13 submittal of inspection for the incline wheelchair lift from DPS Elevator Inspection and pictures from Thomas Hopkins, Director of the Board's, 7/24/13 site visit

- this was the last issue holding up their full occupancy and use of the upper level

MB - allow permanent CO and close the case, based on submittals

DM - second - carries

20) Hearing: Sportsmen's Club, 150 North Quincy Street, Holbrook (C13-017)

WW - hearing called to order at 11:00 a.m.

- introduce the Board

NO MYRA BERLOFF

Mark Dempsey, Compliance Officer for the Board (MD)

Christopher Becker, Massachusetts Office on Disability (CB)

John Cesarini, Complainant

Rita Cesarini

Vincent Rappa, Board Member of Club (VR)

Stephen Weatherhead, Counsel (SW)

Larry LaMonica, Previous president of club (LM)

WW - MD, CB, VR, SW, and LM sworn in

- EXHIBIT 1 – AAB1-64

MD - site visit done on Thursday, July 25th

- lift has been removed

- now proposing exterior ramp, but need variance for interior lack of access

- no bathrooms provided within the building

DM - since no bathrooms, complaint dismissed

CS - second – carries

DM - find in favor of the complainant, verified that access was removed

MT - second – carries

SW - currently no disabled members of the club

- club was built in 40's or 30's

- in response to a request from a member in 2011, they put in a lift to the lower level shooting range

- lift was installed and found that the installation was creating problem with air exchange

- permits were pulled for the installation of the lift, and the lift was certified by the state elevator division

- due to air exchange issue, lift was removed, now proposing a ramp at exterior

KS - cannot hear the variance since it is not before us

SW - will be providing an exterior covered ramp, \$15,000.00
- will have to relocate a sewer pipe
- alternative would be another lift for \$50,000.00
- so proposing exterior ramp with no interior access between space and lower level shooting range
- will be seeking a variance for the ramp installation

CB - complainant called MOD in December of 2012, and stated that the lift was being modified
- that was the reason to initialize the complaint
- lift was removed without looking into any modifications to the lift
- spoke with the building inspector in Holbrook at that time

MT - toilet rooms are proposed

SW - yes, and they will be compliant
- well and sewer system currently, but proposing to tie into the town sewer and water

CS - members only, are still members of the public

SW - thank you, yes understand

JC (complainant) sworn in

JC - ramp being outside puts you thru the back door, don't feel that it is a proper route into the building
- pavilion was new construction, did not have occupancy permit to be in the building, but still used
- open to the public
- filed the complaint, but brand new building

CS - need to establish why proposing ramp versus lift

DM - when the lift was there, there was air quality issues?

SW - nothing submitted, there was a problem with the air quality with the lift

VR - the original system has perforated panels and the air gets pushed thru, the lift blocked the equal distribution, caused problems with the air traveling down to the exhaust fan

DM - any documentation or reports about this?

VR - no

CS - there were problems with the lift anyways, regarding lack of clearances

SW - as originally installed, it was compliant, changed the entrance to a side entrance for air flow, which resulted in clearance issues

DM - submit a plan for compliance or a variance application by August 23, 2013, to be reviewed as an incoming case at the September 9, 2013 meetings

CS - second - carries

- MB now present -

21) Incoming: Salem YMCA, 1 Sewall St., Salem (V13-198)

KS - EXHIBIT – variance application
- spending over 30%, but at first debated spending cost
- seeking variance for the lack of access to the proposed balcony and the lack of accessible seating at said balcony

DM - *since the Petitioners have acknowledged that they are spending over 30% of the assessed value of the building (per the letter from Michael Voosen Fields, received by the Board Staff during the Board Meeting on July 29, 2013); the discussion regarding the variances currently requested shall be CONTINUED, and the Petitioners shall submit a full review of the applicability of 521 CMR and any additional variances requested by September 30, 2013.*

CS - second – carries

22) Incoming Discussion: Boyden Library, 10 Bird St., Foxborough (V13-183)

KS - EXHIBIT – new submittal (received by the Board on 7/24/13) from Julie Jancewicz of LLB Architects, with a revised response to question #9 on the variance application further explaining why compliance would be technologically infeasible at this location.
- Petitioners propose one van accessible space within the covered garage, at location of current two standard accessible parking spaces that share an access aisle
- proposing drop-off area for large buses or transport vehicles, and one van accessible parking space just outside the garage, and close to the accessible entrance
- Commission on Disability supports the variance request as proposed

DM - *GRANT the variance requested for 521 CMR 23.4.7a regarding the lack of compliant height at the parking garage, to allow a height of 7' 6" with a general clearance of 6' 10"; on the condition that the parking is provided as proposed, with compliant van accessible parking spaces provided both within the garage and at the uncovered portion of the parking lot, as shown in Plan C5.00.*

MT - second - carries

23) Advisory Opinion: Stair Nosings (27.3), tread and riser cover – Doug Anderson, C3

KS - proposed tread and riser cover
- ¼" edge half way down riser
- is this considered abrupt?

DM - *does not comply, needs to be tapered or come all the way down to the tread*

CS - second – carries

24) Advisory Opinion: Flush Location question, 521 CMR 30.7.5 & 44.4.3

KS - proposed flush location
- proposed center location above the toilet
- 30.7.5 and 44.4.3 require that the flush valve shall be located on the wide side/accessible side of the water closet

DM - does not comply, would require a variance

MT - second – carries

25) Advisory Opinion: Center 128 Parking Garage, Needham – Walter Dow, Hughes Associates

KS - new construction of 8 tier open garage
- does the 8th floor, top floor need to go to the top floor
- proposing to only travel from ground to 7th tier
- accessible parking located at ground, 2, 3, and 4 tiers, with all van accessible parking at the ground floors
- argument of “occupiable space”, stating that the 8th tier is not occupiable under the definition of occupiable space, and therefore not considered a “story”

MT - occupiable space is a roof deck as well

DM - having cars at that level for use by the public makes it occupiable
- 23.4.4 says “where no elevator is provided”, elevator is provided, so parking needs to be provided to all levels

CS - what about just needing the elevator to access car at upper levels

CS - requires a variance, not compliant as proposed, the 8th floor is occupiable since cars are parked there

DM - second – carries

26) Hearing: Bancroft Commons, 50 Franklin Street, Worcester (C11-040)

WW - called to order at 1 p.m.; fine hearing
- introduce the Board

Mark Dempsey, Compliance Officer for the Board (MD)

David Thibideau, Eagle Elevator (DT)

Jody Harrah, Mayo Group Bancroft Commons Representative (JH)

WW - all sworn in
- Exhibit 1 – AAB1-30

- JK - considerable amount of work being undertaken at the Bancroft Common, even prior to the Board's involvement
 - some of the work has not been done for logistical reasons, and other outstanding variances for other state agencies
- JH - new to the property, asked Ken Murphy to appear, Mr. Thibideau is here in his place
 - building is a little over 100 years old, old hotel in downtown Worcester across from City Hall; elevator was shut down last summer for large repairs and new equipment
 - equipment was too old and needed to be updated, new motor, ropes, and controls
 - survey was completed in October of 2012 regarding the existing elevators
 - paid \$40,000.00 deposit, \$125,000 for total job
 - permit applied for the elevator in January of 2013, permit issued on January 22nd
 - company then dismantled the machine room, but work was delayed due to snow and other weather issued
 - work was done at the roof the second week of February
 - completed on April 15, 2013 and ready for testing
 - test was applied for and scheduled by the state for May 15, 2013
 - the inspector did write up many things that were beyond the scope of the work outlined in the contract with eagle elevator
- MD - AAB12 and 13, copy of variance application to the elevator
- DT - when the state came in, wrote the elevator up to bring it up to current code; AAB15 and 16
 - wanted the building to install a power generator, which is a very large expense
 - everything else has been done, except for the installation of the power generator which is subject to a variance before the state elevator board
 - cannot proceed with any work until the variance hearing is held by the elevator division of the state
 - hearing scheduled for August 7, 2013
- JH - other modifications also proposed
 - put a deposit and parts are ordered on Car #2, should go quicker since a lot of the required work was already done for Car #1
- JK - elevator working provides access to entire building?
 JH - yes
 - elevator inspected, ramp up to the lift
- JH - hired architect to review the entire building in compliance with 521 CMR
 JK - yes, seen on AAB6 and 7
- DT - have since gone in and done some more work, have a week or two left to complete Elevator 1
 - during reinspection of elevator on May 16, 2013 were told that the generator was required

- JK - AAB23, June of 2012 and May of 2013, elevator inspector requested more work
- DT - been working on the site for at least a year
- owners have spent over \$100,000.00
- MD - AAB5, subpoena to owner of the Mayo Group
- JK - saw it as a subpoena for the company not the individual, apologize
- however, Mr. Harrod is on site at the property
- MD - past hearings, the lift was supposed to be completed (AAB28), received on (AAB8) an email from the building inspector noting that the vertical access to serve the main entrance is not completed
- AAB28, timelines required by the Board, fines are accruing at a rate of \$1,000.00 per day
- JH - been at the building since December and there has been a ramp there as well
- MT - an additional elevator beyond the three main elevators
JH - there is a side entrance to the "handicapped" elevator
- JH - July 10, 2013 refinanced the building and put \$170,000.00 in escrow for elevator repairs
- MB - AAB8, lack of completion of the accessible entrance submitted by Building Inspector
JH - ramp was installed last fall when they did the elevator
- MB - building inspector stated that the side entrance is not completed?
JH - intercom system is proposed to be done within the week
- JK - no one here to testify in response to Sausony's e-mail statement, which is hearsay
- JH - intercom system is for visitors
- side entrance is alternate accessible entrance for visitors
- MB - if a resident of the building, is the building always locked, enter with a key
JH - yes, fob access
- lift will be accessed with fob, but not currently that way
- MB - first elevator to be done by 4/1/13
JH - it was done by 4/15/13, due to weather delays
- MB - required accessible entrance, which includes access into the building for a resident, to not require the resident to be buzzed in
- JH - buzzer and intercom will be done within a week

- MB - if a resident, how do I get into the building?
JH - at this time, no one in the building is a wheelchair user
- would have to call ahead to meet at the accessible side entrance
- MB - so no independent access by a wheelchair user?
JH - just need to complete the installation of the lift
- cannot independently as of yet get into the building, because new system proposed to be completed within the week
- JK - brief recess requested (JK and JH leave room)
- (JK and JH return)
- JK - if a tenant used a wheelchair, they could go into the side entrance with a key?
JH - yes, but updating the fob system
- MB - lift is independently operable?
- yes
- MB - is the lift inside the building, or outside of the building
JH - show pictures from tablet
- lift is inside the side entrance
- MB - maneuvering clearances at door to lift seem not to comply
- WW - photos of the ramp to the lift shall be submitted to the Board digitally and marked as Exhibit 2
- CS - ramp to the lift then to the elevator lobby
JH - enter thru outside door, up the ramp to the lift, and then lift to elevator lobby
- exterior door leads to the ramp
- WW - testimony is that work is ongoing, and work will be completed soon
- so do they continue the way they are going, and continue reports
- CS - didn't request more time for the work to be completed; understand the delays, but need to ask for the extension prior to expiration of compliance date
- is there a plan b if the elevator board doesn't grant their variance
- JH - the variance before the elevator board will also affect elevator #2
- CS - *no fines at this time, but report to the board the results of the 8/6/13 variance before the elevator board and keep the board informed of the progress of the project*
- MB - *AAB28, fines were already imposed*

- CS - *not imposing any new fines but fines are still accruing based on the December 17, 2012 hearing, submit something in writing regarding results of 8/6/13 variance before the elevator board, to be submitted to this Board by 8/9/13, as well as status about work done to the lift and the intercom system; report on the 9th should also include progress report as to the ongoing work and if a "plan b" is required if the variance before the elevator board is denied*
- MB - *second – carries*
- MB - *staff site visit conducted with building official and building owners presented, after August 9th*
- MT - *second - carries*

27) Hearing: The Icon, 75 Brainerd Road, Allston (V13-115)

- WW - called to order at 2 p.m.
- introduce the Board

David Snell, PCA (DS)

David Chilinski, PCA (DC)

Jeffery Gannon, PCA (JG)

- WW - all sworn in
- EXHIBIT 1 – AAB1-14
- EXHIBIT 2 – July 24th email
- EXHIBIT 3 - July 25th email
- EXHIBIT 4 – colored renderings 7/29/13 submittal
- WW - very rarely get this much information this late in the process that we do not have the time to review the submitted documents
- DC - entrances shown in original application
- first floor plan showing where the entrances are existing
- existing site that has some one story buildings that have been torn down
- located on site with no curb or sidewalk, private way
- proposing new building with street, curb, and sidewalks
- corner of Brainerd road and Redford street
- 6 units in questions
- two levels of parking in order to meet zoning requirement
- have a water table problem in this location, so attempting to build the building above the water table
- if the garage is below the water table, problems with stabilization of the building, need to make it completely waterproof, and need to make sure the slab is a pressure slab, to keep the building stable
- to move the building below the water table and create the units at grade would result in \$900,000.00 of work
- 6 units are 42 inches above sidewalk
- the units are accessible via the main lobby, all levels are accessible via elevator
- 6 units that have doors that face the parking area

- proposing second entrances at the street side, based on Boston Redevelopment Authority (BRA) request to have “life” at the street side of the building
- variance based on cost, based on site conditions, if the site conditions did not exist, the building would be put with entrances at grade

WW - not a required egress?

DC - no, supplemental entrance at the request of the BRA and the Boston Civic Design Commission (BCDC)

DS - zoning appeals board applied for, and zoning variance appeals period is almost up

MB - building not built yet, did you notify the BRA that stairs would be direct violation of 521 CMR

DC - yes, and they asked for a variance to be requested of the Board

MB - supplemental entrance, but looks like the primary entrance

- guests come into front entrance, not rear entrance

DC - original design for the building, were designed at the parking garage entrance

- street side entrances are not needed for code purposes, egress, do need the accessible entrances

DC - the notion was that people coming and going from these units would be an enhancement to Redford Street

MB - unless they are unable to traverse the stairs

CS - which came first: water table, or BCDC/BRA request?

DC - design was based on the water, which was how the design for the present units

- in the process of the hearing for approval of the project, that’s when they were requested to add the entrances

- need to create street lift, with these entrances

- an entrance that is accessible is at the corner of Brainerd and Redford

- enter into accessible lobby space

- parking is only residents, all assigned spaces

CS - what if they don’t have car, to get into their units?

DC - thru the lobby

CS - what does united spinal have to do with this?

DC - Dominic Marinelli is the code consultant that is hired by the petitioners

RG - why do these 6 units have to be the accessible ones?

DS - these are the Group 1 units

DS - the Group 2A units are spread out throughout the building based on type and location

DC - if stoops are not provided, the units are visitable via going in the main door, up the elevator and to the garage to access the alternate entrances

DS - problem would be with parking spaces, corridor would reduce available space within the garage

MB - where does mail go?

DC - central mail in the lobby

MB - deny the variance requested to stoop entrances, lack of access to those street side entrances

DM - second –

CS - a lot of building being built in the neighborhood, don't think that this would be an issue

MB - brand new beautifully designed

WW - grounds for a variance, tech. infeasible or excessive cost without benefit

MB - original design did not include this design for on street entrances, so therefore both arguments are moot

DC - the rest of the units in the building go out the main entrance

MB - yes, but secondary access, and this is an entrance that will be used by the tenants more frequently for those six units than going to the main entrance

WW - other entrance to these units is through the garage

- carries with MT opposed

- DM no longer present -

28) Hearing: Boston Church of Christ, 75 Pleasant St., Arlington (V13-139)

WW - called to order at 3 p.m.

- introduce the Board

Gary Slebodnick, Director of Administration (GS)

Colin Smith, Architect (CSm)

WW - both sworn in

- EXHIBIT 1 – AAB1-56

CSm - built in 1844

- 1950's addition to the church

- 10 foot elevation difference between front yard and main level

- three floors: main level, lower level, second floor in 1950's building (offices and meeting rooms)

- restoration of 1840's church, working with Mass Historic and recently awarded grant for some of that work

- largely replacing the 1950's portion of the building on the existing foundation

- Boston Church of Christ (BCC) bought the church in November of 2012

- Rogers Pierce school at lower level of the church, and they do use portions of the lower level of the addition
- level one is the historic sanctuary, bathrooms and offices, and small chapel in 1950's addition which will be removed and replaced
- some changes of level at floors, which drove the placement of the elevator, need to be in the middle of both buildings with front and rear doors
- lower level of the school will maintain, proposing sloped entrance to the school
- proposing a food pantry, which will be accessed by the sloped entrance
- main level will have the pews re-spaced at the sanctuary, will add 6 new accessible seating locations with companion seating
- last 5 rows are stadium style seating
- new bathrooms at the addition and new multipurpose room
- second floor of the addition (AAB25)
- meeting room, accessible bathroom and offices
- no onsite parking
- church had previous agreement to park in the Verizon parking lot next door, rest is street parking and there is some municipal parking 300 feet away
- seeking variance to not make the entrance between the two building accessible, proposing the side accessible entrance
- a ramp to the entrance between the two buildings would be about 145 feet of ramp

MT - historic front entrance, any other function of narthex
 CSm - strictly egress, stairs lead to sanctuary at either side

MB - entrance in the middle is part of the existing structure or part of what is being built new?
 CSm - existing, but do need a lot of work, previously thought were not allowed to touch them, but were allowed to fix them to make them safe, and may extend the landing a bit

MB - 10 foot change in level there? Is there a way to create a path below the steps into the door?
 - only on accessible entrance proposed, and it leads to the school area

CSm - classrooms are 5-6 feet above pantry and fellowship hall area

GS - at street level, either need to excavate down or build ramp structure to get up to the upper level entrance
 - school is a year-round school that is there from 6 a.m. to 7 p.m.
 - accessible entrance leads to elevator lobby and then goes down to the fellowship hall area from the classrooms within the school
 - fellowship hall is a less used space, school space is used most frequently and then access provided up to the sanctuary from the elevator lobby

MB - what do the center steps lead to?
 GS - accessed the side of the sanctuary and multipurpose space, and will be vestibule space

- MB - can you grade back to the entrance
- Csm - did consider grading down the entrance and lowering the center entrance
- but would be chasing grade and ran out of room
- GS - people that they bought the building from said that they never used the center entrance
- good deal of regular program will happen at the lower level of the main church building
- Csm - expect that all three entrances will be used since there parking is all around the building at various locations
- MB - historic entrance accessible?
Csm - not accessible since have to walk down the steps to the narthex
- GS - up a couple of steps, 4 or 5 steps above classrooms, and then to get up into the sanctuary, go to landing and then up stairway to sanctuary
- MB - accessible entrance is not considered a problem to the school?
- will the food pantry be operating during off hours of the school
- Csm - added a door at the end of the hallway to close off the school from food pantry visitors
- CS - *grant the lack of access to the two inaccessible entrances, on the condition that directional signage posted and that the accessible entrance is always open when the building is open, there is lighting, and a roof covering, and the walkway is well maintained*
- MT - *second – carries*
- Csm - on the left hand side of AAB24
- choir loft up 4 feet from altar level, up 4 steps
- proposing to maintain current configuration since adding a ramp is not conducive to the worship in terms of the amount of space a ramp would take up
- GS - don't have an activity at the altar during services
- mostly it is used as a presentational type of place with musicians
- there is an old pipe organ that works and takes up a large portion of the space
- challenge with the space, and can have speakers at the main floor level
- not a very important component for worship
- MT - in addition to musicians and choir, what would be the benefit to expand the altar area?
GS - very small space, drum set and three other people
- the expansion of the space would just be for additional singers, what is there presently does not have enough room
- MT - in the past, the altar was only used by the church clergy

MB - have a hard time not allowing everyone to participate
- would like to see alternate design for access

GS - three different levels at the altar
- do have a large amount of wheelchair users, so understand the need for access and inclusion

CS - would like to see some access, if even just to the lower level of the stage/altar

MB - continue to allow petitioner to go back and look at the possibility of a lift, understand a ramp is not feasible, to access the stage/altar; by August 23, 2013 at the latest

CS - second – carries

CSm - another stage at fellowship hall, 2 ½- 2’7” high

GS - would like to make it flat, but there is a concrete floor

CSm - there is storage under the stage, but filled with concrete halfway, so cannot remove completely

CS - continue for further study of access to the stage to be submitted by August 23, 2013

MB - second – carries

CSm - classrooms in the lower level, 4 of the 5 are serviced by existing sinks
- divided by wall of cabinets
- no knee space and in corner of the room, so no clearance under the sinks as well

GS - all pre-K students
- unsure of use of the sinks

CSm - variance for controls, knee space, and clearance centered on the sink

MB - could you remove the cabinet?

CSm - yes, but it would all have to come out based on height of existing sinks and plumbing

MB - what would be the cost?

CS - grant the variances for the lack of clearances at the sink, on the condition that compliant controls installed at all of the sinks

MT - second- carries with MB opposed

- NO MORE MYRA – JEFF DOUGAN as MOD DESIGNEE -

29) Advisory Opinion: Brockton City Hall Plaza Amphitheater, Clarissa Rowe

KS - seeking an opinion about the renovated amphitheater at Brockton City Hall Plaza
- 200 seat amphitheater, will provide access to the top and bottom level, center level proposed to have no access

CS - *complies with 521 CMR 14.4 for distribution, therefore no variance required*

JD - *second – carries*

30) Advisory Opinion: Deaf and Hard of Hearing Units, 521 CMR 9.7

KS - question is, do the 2% of rooms required to have deaf and hard of hearing features come from the overall room count, or are they 2% of the 5% of the required accessible Group 2 rooms

JD - *2% of overall count, not part of 5% of required accessible Group 2 units*

MT - *second – carries*

31) Discussion: 138 Mount Auburn Street, Cambridge

KS - straight on, side exit vertical wheelchair lift that they would like to remove since it is not working
- dimensions are 54" by 40"
- no work currently proposed, other than potential removal of the lift

JD - *require plan for compliance be submitted since no access currently being provided*

CS - *second - carries*

32) Discussion: Minutes and Decisions from July 15, 2013

KS - changes submitted by CS, just to clarify some decisions

CS - *accept minutes and decisions with included proposed changes*

MT - *second – carries with JD abstaining*

- End of Meeting -